

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUAN CARLOS VERA,

Plaintiff,

v.

JAMES O'KEEFE III, an individual and
HANNA GILES, an individual,

Defendants.

Case No. 10CV1422-L (JMA)

**NOTICE AND ORDER FOR EARLY
NEUTRAL EVALUATION
CONFERENCE**

IT IS HEREBY ORDERED that an Early Neutral Evaluation Conference will be held on **December 16, 2010** at **10 a.m.** in the chambers of the Honorable Jan M. Adler, United States Magistrate Judge, Room 1165, U.S. Courthouse, 940 Front Street, San Diego, California.

Pursuant to Rule 16.1(c) of the Local Rules of the United States District Court for the Southern District of California, **all named parties, all counsel, and any other person(s) whose authority is required to negotiate and enter into settlement shall appear in person at the conference**, shall be prepared to discuss the claims and defenses, and shall be legally and factually prepared to discuss and resolve the case at the Early Neutral Evaluation Conference. **The individual(s) present at the Early Neutral Evaluation Conference with settlement authority must have the unfettered**

1 discretion and authority on behalf of the party to: 1) fully explore all settlement
 2 options and to agree during the Early Neutral Evaluation Conference to any
 3 settlement terms acceptable to the party (*G. Heileman Brewing Co., Inc. v. Joseph*
 4 *Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989)), 2) change the settlement position of
 5 a party during the course of the Early Neutral Evaluation Conference (*Pitman v.*
 6 *Brinker Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003)), and 3) negotiate a
 7 settlement without being restricted by any predetermined level of authority (*Nick*
 8 *v. Morgan's Foods, Inc.*, 270 F.3d 590, 596 (8th Cir. 2001)).

9 Governmental entities may appear through litigation counsel only. As to all other
 10 parties, appearance by litigation counsel only is not acceptable. Retained outside
 11 corporate counsel shall not appear on behalf of a corporation as the party who has the
 12 authority to negotiate and enter into a settlement. **The failure of any counsel, party or**
 13 **authorized person to appear at the Early Neutral Evaluation Conference as**
 14 **required will result in the immediate imposition of sanctions.**

15 All conference discussions will be informal, off the record, privileged, and
 16 confidential.

17 Counsel for any non-English speaking parties is responsible for arranging for the
 18 appearance of an interpreter at the conference.

19 Although the submission of statements is not required in advance of the Early
 20 Neutral Evaluation Conference, parties may submit concise statements if desired. If a
 21 statement is submitted, it shall be provided to chambers no later than one week prior to
 22 the scheduled conference.¹ If the parties submit statements in connection with the Early
 23 Neutral Evaluation Conference, they may either do so on a confidential basis or may
 24 exchange their statements.

25 Rule 26 of the Federal Rules of Civil Procedure shall apply to this case. All
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27 ¹Statements under 20 pages in length, including attachments and exhibits, may be
 28 delivered directly to chambers, e-mailed to efile_adler@casd.uscourts.gov, or faxed to (619)
 702-9939. Statements exceeding 20 pages in length, including attachments and exhibits, must
 be delivered directly to chambers.

1 discovery shall be stayed until after the Rule 26(f) conference, unless otherwise
2 permitted by Rule 26(f) or court order.

3 In the event the case does not settle at the Early Neutral Evaluation Conference,
4 the parties shall also be prepared to discuss the following matters at the conclusion of
5 the conference:

6 1. Any anticipated objections under Federal Rule of Civil Procedure 26(a)(1)
7 to the initial disclosure provisions of Rule 26(a)(1)(A-E);

8 2. The scheduling of the Rule 26(f) conference;

9 3. The date of initial disclosures and the date for lodging the discovery plan
10 following the Rule 26(f) conference; and

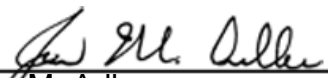
11 4. The scheduling of a Case Management Conference pursuant to Rule
12 16(b).

13 Plaintiff's(s') counsel shall give notice of the Early Neutral Evaluation Conference
14 to parties responding to the complaint after October 27, 2010.

15 Questions regarding this case may be directed to the Magistrate Judge's law
16 clerk at (619) 557-5585.²

17 **IT IS SO ORDERED.**

18 DATED: October 27, 2010

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20 Jan M. Adler
21 U.S. Magistrate Judge
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² Judge Adler's Chambers Rules are posted on the Court's website.

**NOTICE OF RIGHT TO CONSENT TO TRIAL
BEFORE A UNITED STATES MAGISTRATE JUDGE**

IN ACCORDANCE WITH THE PROVISIONS OF 28 U.S.C. § 636(c), YOU ARE
HEREBY NOTIFIED THAT A U.S. MAGISTRATE JUDGE OF THIS DISTRICT MAY,
UPON THE CONSENT OF ALL PARTIES, ON FORM 1A AVAILABLE IN THE
CLERK'S OFFICE, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY
OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT.
COUNSEL FOR THE PLAINTIFF SHALL BE RESPONSIBLE FOR OBTAINING THE
CONSENT OF ALL PARTIES, SHOULD THEY DESIRE TO CONSENT.

YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT TO
CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY
TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE
OR MAGISTRATE JUDGE TO WHOM THE CASE HAS BEEN ASSIGNED BE
INFORMED OF YOUR DECISION.

JUDGMENTS OF THE U.S. MAGISTRATE JUDGES ARE APPEALABLE TO
THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE
FEDERAL RULES OF APPELLATE PROCEDURE.